

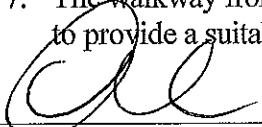
Town of Amherst
Zoning Board of Appeals
SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit, ZBA FY2014-00013, to formalize an existing dwelling unit as a Supplemental Apartment, under Section 5.011 of the Zoning Bylaw, at 439 Station Road (Map 24A, Parcel 25, R-O & ARP Zoning District), with the following conditions:

1. One of the units on the property shall be and remain owner-occupied. The main house shall not be used simultaneously for accessory lodging under any provision of Section 5.010.
2. The Supplemental Apartment shall be:
 - a. Built, used, and maintained substantially in accordance with the Floor Plan, prepared by Ryan Regan-Ladd, dated December 11, 2013.
 - b. Notwithstanding the provisions of Section 12.16, the Supplemental Apartment shall not be occupied by more than two (2) unrelated individuals.
 - c. Managed in accordance with the approved Management Plan.
3. Parking shall be built, used, and maintained substantially in accordance with the Existing Conditions survey/proposed parking plan, prepared by Harold Eaton Associates, dated December 19, 2013:
 - a. There shall be no more than four (4) vehicles parked on the premises on a regular basis
 - b. Tenants shall only park in the designated areas on the property.
 - c. Adequate screening, a minimum of three feet in height at installation, shall be installed and maintained adjacent to the parking area as shown and annotated on the approved Existing Conditions plan.
4. Upon a change in ownership, the new owner shall submit a new Management Plan for review and approval by the Zoning Board of Appeals at a public meeting. Any change deemed substantial, shall require modification of the permit.

Prior to the issuance of the final Certificate of Occupancy:

5. A screening plan showing the proposed vegetation, arrangement and location substantially in accordance the annotated approved Existing Conditions plan shall be submitted and reviewed by the Building Commissioner. Said plan shall be implemented prior to the issuance of a final Certificate of Occupancy.
6. All exterior lighting shall be designed or oriented to be downcast.
7. The walkway from the parking area to the dwelling unit shall be repaired, re-set or replaced to provide a suitable safe walking surface.


Eric Beal

Amherst Zoning Board of Appeals

1/30/14
DATE

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant/Owner: Pamela Brigham, 439 Station Road, Amherst, MA 01002

Date application filed with the Town Clerk: December 19, 2013

Nature of request: To formalize an existing dwelling unit as a Supplemental Apartment, under Section 5.011 of the Zoning Bylaw

Address: 439 Station Road (Map 24A, Parcel 25, R-O & ARP Zoning District)

Legal notice: Published on December 25, 2013 and January 1, 2014 in the Daily Hampshire Gazette and sent to abutters on December 20, 2013

Board members: Eric Beal, Mark Parent, Keith Langsdale

Staff members: Jeff Bagg, Senior Planner, Building Commissioner, Rob Morra

Submissions:

- Application form filed with the Town Clerk on December 19, 2013
- Management Plan
- Existing conditions photographs
- GIS aerial photograph
- Sample Lease
- Existing conditions survey/proposed parking plan, prepared by Harold Eaton Associates, dated December 19, 2013
- Floor plans, prepared by Ryan Regan-Ladd, dated December 11, 2013

Site Visit: January 6, 2014

Eric Beal, Mark Parent, and Keith Langsdale met the applicant, Pamela Brigham, on-site. They observed the location of the property at the south and east corner of Station Road and Iduna Lane, and the following:

- The exterior of the property, including the existing parking areas adjacent to the dwelling; the paved parking area immediately adjacent to Station Road; the approximate location of headlight glare facing west; and the walkway to the existing small dwelling unit.
- The interior of the small dwelling unit consisting of a kitchen, bedroom, living room and separate laundry and storage area.

Public Hearing: January 9, 2014

Mr. Beal disclosed that he is an acquaintance of the applicant but that the relationship would not impact his ability to decide on the matter impartially. Mr. Parent disclosed that he is an acquaintance with several of the abutters listed for this application but that those relationships would not impact his ability to decide on the matter impartially.

The applicant, Pamela Brigham, was accompanied by Kristi Bodin. Ms. Brigham presented her application, summarized as follows:

- She purchased the property over 13 years ago. When she bought it, a small area of the basement contained and was used as a small apartment.
- The second unit was registered with the Town's Health Department four or five years ago.
- As a result of a loan application to renovate the kitchen on the main floor of the house, the question of whether the unit was legal was raised. After applying for a building permit and review by Town staff, it was determined that the apartment use did not have the required Special Permit. In consultation with the contractor, it was also determined that the unit may not meet the current building code requirements for a dwelling unit, mainly fire separation between the unit and the rest of the house.
- In addition to the Special Permit, some interior upgrades will be required, including the addition of a new layer of sheet rock to serve as a fire separation between the apartment and the main house. That work would only occur after a Special Permit is granted for the apartment use.

The Board discussed the Zoning Bylaw requirements for a Supplemental Apartment as listed under Section 5.011, and made the following findings:

5.0110 - A supplemental apartment is a small accessory dwelling unit incorporated as part of and subordinate to a single family detached dwelling. As an accessory use, a supplemental apartment is exempt from the additional lot area/family requirements of Table 3. Supplemental apartments are intended to meet the changing housing needs of owner occupied households, including housing for relatives and others associated with the household, and the provision of small, individual rental units. The proposal formalizes a small dwelling unit within an existing basement area of the dwelling. The use is exempt from the "additional lot area" per family requirement of Table 3, therefore, no additional lot area is required for the use.

5.0111- The Board of Appeals may authorize under a Special Permit in the Outlying Residence, Low Density Residence, Neighborhood Residence, Village Center Residence and General Residence Districts, one supplemental apartment accessory to the use of a single family dwelling, provided that: The property is located in the Outlying Residential Zoning District (R-O) and the Aquifer Protection Recharge Zoning District (ARP). The Board found that under Section 3.2580 of the Zoning Bylaw, the principal use under Section 3.3 is a single family dwelling and the supplemental apartment use is accessory to that. Therefore, no Special Permit is required and none of the provisions of Section 3.2580 apply. Additionally, the Board found that based on the lot coverage calculations on the submitted site plan, the total building coverage is 8.5% where 10% is permitted and the total lot coverage is 12.8% where 15% is permitted.

5.01110- There shall not be more than 800 square feet of gross floor area in a supplemental apartment, except that any apartment built and maintained as fully accessible under the provisions of the Americans with Disabilities Act (ADA) may include a maximum of 900 square feet in gross floor area. As shown on the submitted floor plans, the habitable space on the second floor is 651 square feet and is less than the maximum of 800 square feet.

5.01111- Any single family dwelling in which a supplemental apartment is constructed shall not be used simultaneously for accessory lodging under any provision of Section 5.010. This limitation shall be made a condition of the approval.

5.01112- One of the dwelling units shall be occupied by the owner(s) of the principal single family residence, which requirement shall be made a condition of any Special Permit issued under this section. Owner occupancy is a condition of the approval.

5.01113- Notwithstanding the provisions of Section 12.14, a supplemental apartment shall be occupied by a total of no more than three (3) people. As stated herein, a condition of the permit limits the number of unrelated individuals to two (2) people.

The following members of the public spoke regarding the proposal:

- Brian Thomson, 288 Iduna Lane, stated that they would be the neighbor most impacted by the proposal. He explained that Ms. Brigham has been a great neighbor and her tenants have not been an issue. The main concern is regarding a future owner's ability to regulate and control the tenants and the fact that the neighborhood currently does not contain any rental or multifamily properties. He stated that headlights cast down from the driveway onto their house and asked about screening. Finally, it was requested that the occupancy of the small apartment be limited to two people rather than the maximum of three people.
- Patricia Sullivan, 211 Iduna Lane, expressed concern about vehicles parking on Iduna Lane near Station Road, especially tenants or guests, given the limited amount of parking available on that property. She stated that the section of Iduna is dangerous when vehicles are parked near the intersection due to the poor sight lines. She expressed concern about the potential for the applicant to construct a new driveway to the property from Iduna Lane.

Ms. Brigham stated that she has had a few guests park on Iduna Lane, but that those occurrences were temporary and brief and that none of her tenants would park on Iduna Lane. Mr. Bagg stated that it is difficult for the Board to regulate these types of parking issues. He noted that the Board could require as a condition of the approval that tenants only park on the property. This would be distinguishable from occasional guest parking or for certain parties or gatherings which most people have occasionally, such as Thanksgiving, etc.

The Board discussed the parking on-site and the parking requirements of Article 7 of the Zoning Bylaw. As shown on the submitted site plan, the property currently contains three parking spaces which meet the requirements of the Zoning Bylaw. A fourth paved parking area does exist immediately adjacent to Station Road, but it's not actually on the subject property. The site plan shows a small area to be expanded to accommodate one additional new space. After discussion, the Board determined that the additional parking space, creating a total of four on the property, was warranted.

The Board discussed a requirement for screening to be added along the west sides of the parking spaces. The Board determined that some screening was needed to block headlight glare from casting down toward the abutting properties on Iduna Lane. The Board determined the approximate location of the screening and that it would need to be a minimum of three feet in height. The approximate location for the screening was demarked on the site plan with the final review and approval of the screening to be completed by the Building Commissioner prior to the issuance of a final Certificate of Occupancy.

Mr. Langsdale asked for confirmation regarding the laundry area and whether it was part of the apartment. Ms. Brigham stated that the tenant may use the laundry area, but that technically it's part of the main house.

The Board discussed limiting the number of tenants from the allowed three people to two people. Mr. Bagg stated that the Zoning Bylaw cannot regulate the number of people who constitute a traditional family, as defined under Section 12.16. However, such a limit of two people could apply to the definition regarding unrelated individuals as defined in the same section. Ms. Brigham stated that such a limitation would be acceptable as she would not want to lease the unit to any more than two people.

The Board discussed the walkway from the existing parking area to the dwelling unit. It was noted that portions of the walkway were difficult to walk on at the site visit. Specifically, several of the stone pavers were sunken below grade causing puddeling and icing. After discussion, the board determined that the walkway should be improved to provide a safer pedestrian access to the unit.

Specific Findings:

The Board found under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 & 10.381 - The proposal is suitably located in the neighborhood in which it is proposed and/or the total Town, as deemed appropriate by the Special Permit Granting Authority; The proposal is compatible with existing Uses and other Uses permitted by right in the same District.

The Board found that the property is located in a residential neighborhood and that the proposed use is compatible based on: a) the limitation of tenants to two unrelated individuals, and, b) the requirement that the property be owner-occupied; both of which will allow the use to remain compatible with the existing character of the neighborhood.

10.382, 10.383 & 10.385 - The proposal would not constitute a nuisance due to air and water pollution, flood, noise, odor, dust, vibration, lights, or visually offensive structures or site features; The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians; The proposal reasonably protects the adjoining premises against detrimental or offensive uses on the site, including air and water pollution, flood, noise, odor, dust, vibration, lights or visually offensive structures or site features. The Board found that the proposal to formalize the existing supplemental apartment is conditioned on limitations with respect to parking, number of tenants, and owner occupancy all of which are intended to reduce any potential negative impact of the use.

10.384 - Adequate and appropriate facilities would be provided for the proper operation of the proposed use. The Board finds that the proposal includes internal improvements to install fire separation between each unit to provide the relevant life safety requirements of the building code.

10.386 & 10.387 & 10.392 - The proposal ensures that it is in conformance with the Parking and Sign regulations (Articles 7 and 8, respectively) of this Bylaw; The proposal provides convenient and safe vehicular and pedestrian movement within the site, and in relation to adjacent streets, property or improvements. If the Special Permit Granting Authority deems the proposal likely to have a significantly adverse impact on traffic patterns, it shall be permitted to require a traffic impact report, and the proposal shall comply with Section 11.2437 of this Bylaw; The proposal provides adequate landscaping, including the screening of adjacent residential uses, provision of street trees, landscape islands in the parking lot and a landscape buffer along the street frontage. The proposal includes a small area to be expanded to provide the four spaces required for each unit pursuant to Section 7.0000. The proposal is conditioned to require screening be installed adjacent to the parking areas to prevent headlight glare on the neighboring property. Said screening shall be installed and maintained in accordance with Section 7.112 of the Zoning Bylaw. A condition of the approval requires that the walkway from the parking area to the dwelling unit be improved to provide a safe walking surface for tenants.

10.389 - The proposal provides adequate methods of disposal and/or storage for sewage, refuse, recyclables, and other wastes resulting from the uses permitted or permissible on the site, and methods of drainage for surface water. The use will be operated in accordance with the approved Management Plan which requires trash storage to be kept inside the existing building. The property is connected to Town sewer and water.

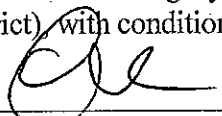
10.393 - The proposal provides protection of adjacent properties by minimizing the intrusion of lighting, including parking lot and exterior lighting, through use of cut-off luminaires, light shields, lowered height of light poles, screening, or similar solutions. A condition of the permit requires that all exterior lights associated with the Supplemental Apartment be downcast to prevent spillage onto adjacent properties.

10.398 - The proposal is in harmony with the general purpose and intent of this Bylaw, and the goals of the Master Plan. The Board found that the proposal is in harmony with the purposes of the Bylaw as the dwelling unit is small; part of an existing single family dwelling; and, will maintain owner occupancy. The proposal meets the goal of the Master Plan to "encourage a greater mix of housing types, sizes, and prices serving a wider range of income levels than is currently available throughout Amherst. Encourage the development of economically diverse neighborhoods".

Zoning Board Decision

Mr. Beal MOVED to approve the application with conditions. Mr. Langsdale seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to grant a Special Permit, ZBA FY2014-00013, to formalize an existing dwelling unit as a Supplemental Apartment, under Section 5.011 of the Zoning Bylaw, at 439 Station Road (Map 24A, Parcel 25, R-O & ARP Zoning District) with conditions.


ERIC BEAL


MARK PARENT


KEITH LANGSDALE

FILED THIS 31st day of Jan, 2014 at 9:00 am,
in the office of the Amherst Town Clerk Susan Audette.
TWENTY-DAY APPEAL period expires, February 20 2014.
NOTICE OF DECISION mailed this 31 day of January, 2014
to the attached list of addresses by Jeffrey R. Bagg, for the Board.
COPY OF NO APPEAL issued this _____ day of _____, 2014.
NOTICE OF PERMIT or Variance filed this _____ day of _____, 2014,
in the Hampshire County Registry of Deeds.

**BOARD OF APPEALS
AMHERST, MASSACHUSETTS
RECORD OF APPEALS AND DECISION RENDERED**

Petition of Pamela Brigham

For a Special Permit, ZBA FY2014-00013, to formalize an existing dwelling unit as a Supplemental Apartment, under Section 5.011 of the Zoning Bylaw, with conditions

On the premises of 439 Station Road

At or on Map 24A, Parcel 25, R-O & ARP Zoning District

NOTICE of hearing as follows mailed (date) December 20, 2013
to attached list of addresses and published in the Daily Hampshire Gazette
dated December 25, 2013 and January 1, 2014

Hearing date and place January 9, 2014 (Town Hall)

The Amherst Zoning Board
of Appeals will meet on
*Thursday, January 9,
2014*, at 6:30 P.M. in the
Town Room, Town Hall,
to conduct the following
business:
PUBLIC HEARING:
ZBAFY2014-00013-Pamela
Brigham -- To formalize an
existing dwelling unit as a
Supplemental Apartment,
under Section 5.014 of the
Zoning Bylaw, at 439 Station
Road (Map 24A, Parcel 25,
R-O & ARP Zoning District)
ERIC BEAL, CHAIR
AMHERST ZONING BOARD
OF APPEALS
December 24, January 1
3282012

SITTING BOARD and VOTE TAKEN:

To grant a Special Permit, ZBA FY2014-00013, to formalize an existing dwelling unit as a Supplemental Apartment, under Section 5.011 of the Zoning Bylaw, with conditions

Eric Beal -- Yes Mark Parent -- Yes Keith Langsdale - Yes

DECISION: APPROVED with conditions as stated in permit

THE COMMONWEALTH OF MASSACHUSETTS
AMHERST

City or Town
NOTICE OF SPECIAL PERMIT
Special Permit
(General Laws Chapter 40A)

Notice is hereby given that a Special Permit has been granted

To Pamela Brigham
Address 439 Station Road
City or Town Amherst, MA 01002

Identify Land Affected: 439 Station Road
(Map 24A, Parcel 25, R-O & ARP Zoning Districts)

By the **Town of Amherst Zoning Board of Appeals** affecting the rights of the owner
with respect to the use of the premises on

439 Station Road Amherst
Street City or Town

The record of title standing in the name of
Pamela Brigham
Name of Owner

Whose address is 439 Station Road Amherst MA 01002
Street City or Town State Zip Code

By a deed duly recorded in the
Hampshire County Registry of Deeds: Book 8246 Page 334
or

Hampshire Registry District of the Land Court, Certificate No. _____,
Book _____, Page _____

The decision of said Board is on file, with the papers, in ZBA FY2014-00013
In the office of the Town Clerk Sandra J. Burgess

Certified this _____ day of _____

Board of Appeals:

[Signature] Chairman
(Board of Appeals)
Mark Parent Clerk
(Board of Appeals) (Signature)

at _____ o'clock and _____ minutes _____ m.
Received and entered with the Register of Deeds in the County of Hampshire
Book _____ Page _____

ATTEST _____

Register of Deeds
Notice to be recorded by Land Owner

Town of Amherst Abutter List

Parcel ID	Parcel Address	Owner1	Owner2	Address	City/Zip
24A-63	IDUNA LN	MACCONNELL, PETER W & SUSAN G		235 IDUNA LN	AMHERST, MA 01002
21C-29	IDUNA LN	THOMPSON, BRIAN & MARILYN B		288 IDUNA LN	AMHERST, MA 01002
24A-62	194 IDUNA LN	DAVIS, RICHARD A & LISA M		194 IDUNA LN	AMHERST, MA 01002
24A-68	211 IDUNA LN	SULLIVAN, PATRICIA A		211 IDUNA LN	AMHERST, MA 01002
24A-64	234 IDUNA LN	MAYER, RICHARD & BEVERLY TRUSTEES		234 IDUNA LN	AMHERST, MA 01002
24A-66	235 IDUNA LN	MACCONNELL, PETER W & SUSAN G		235 IDUNA LN	AMHERST, MA 01002
24A-65	268 IDUNA LN	HAMBLETON, RONALD K & ELSE L		268 IDUNA LN	AMHERST, MA 01002
21C-28	288 IDUNA LN	THOMPSON, BRIAN & MARILYN B		288 IDUNA LN	AMHERST, MA 01002
21C-39	STATION RD	FARM HILLS PROPERTY OWNERS	C/O SALLIE STEELE	346 STATION RD	AMHERST, MA 01002
21D-29	STATION RD	FIRMAN, GREGORY J & LYNDE R		474 STATION RD	AMHERST, MA 01002
21C-32	336 STATION RD	SILVER, CAROL D TRUSTEE		336 STATION RD	AMHERST, MA 01002
21C-37	346 STATION RD	KATIGBAK, STEPHEN K	STEELE, SALLIE WELSH	346 STATION RD	AMHERST, MA 01002
21C-36	356 STATION RD	ELLIS, JOSEPH J & ELLEN WILKINS		356 STATION RD	AMHERST, MA 01002
21C-35	366 STATION RD	QUINN, JOHN E & MARY JANE S	C/O MAY, ERNEST D & MARY L MILKEY	366 STATION RD	AMHERST, MA 01002

<i>Parcel_ID</i>	<i>Parcel_Address</i>	<i>Owner1</i>	<i>Owner2</i>	<i>Address</i>	<i>CityStZip</i>
21C-34	376 STATION RD	WISE, JEREMY & JANET KLAUSNER TRUSTEES		376 STATION RD	Amherst, MA 01002
24A-25	439 STATION RD	BRIGHAM, PAMELA A		439 STATION RD	AMHERST, MA 01002
24A-51	461 STATION RD	PAKMAN, MARCELO & ROMERO, MARIA J A		461 STATION RD	AMHERST, MA 01002
24B-46	471 STATION RD	PETROPULOS, JOHN A & ELECTRA		471 STATION RD	AMHERST, MA 01002
21D-25	474 STATION RD	FIRMAN, GREGORY J & LYNDE R		474 STATION RD	AMHERST, MA 01002
21D-2	16 WILDFLOWER DR	CHU, KUANG HWEI KENT & HUAL CHIN		39 SOUTH PLEASANT ST	AMHERST, MA 01002